

**UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF
FLORIDA
(West Palm Beach Division)**

Case No. 9:22-cv-81857-DMM

DIANA FEDDERMAN,

Plaintiff,

vs.

**PALM BEACH COUNTY SCHOOL
BOARD, a Florida political
subdivision, and MICHAEL
J. BURKE, individually,**

Defendants.

**DEFENDANTS' EMERGENCY MOTION TO COMPEL BETTER ADDRESS OF
THERAPIST, JODI BROWN**

Defendants', PALM BEACH COUNTY SCHOOL BOARD ("School Board"), and MICHAEL J. BURKE, by and through their undersigned counsel, hereby files this Emergency Motion to Compel Better Address of Therapist, Jodi Brown and state the following:

1. On October 18, 2023, Defense counsel conducted the deposition of Plaintiff, Diana Fedderman. Therein, she testified to being under the care of therapist, Jodi Brown.
2. Plaintiff testified that she had spoken to Jodi Brown about various issues, potentially referencing this case in sessions.
3. Plaintiff testified her therapist's office was located in Lake Worth, Florida.
4. On October 23, 2023, Plaintiff counsel filed their Pretrial Witness List, with #6 listed as Jodi Brown, LMHC. (Plaintiff's therapist)
5. On October 23, 2023, Defendants served their "Amended Notice of Serving Subpoena to Produce Documents, Information, or Objects or To Permit Inspection of Premises in a Civil Action."

6. Also on October 23, 2023, Defendants provided a Subpoena Duces Tecum for Jodi Brown, LMHC, to Plaintiff's counsel for review and to indicate objections, if any.

7. Defendants made attempts to contact Therapist, Jodi Brown, on:

- a. October 30, 2023 at 10:34 am and 3:46 pm, both by phone.
- b. November 1, 2023 at 10:04 pm, by phone.

8. In the time since, Defense counsel has had an opportunity to speak with Plaintiff's Therapist, Jodi Brown, successfully making contact on November 1, 2023 at 10:22 AM. During the call, Ms. Brown indicated Dr. Fedderman's (not plaintiff's counsel) objections to Ms. Brown participating in Defense counsel's requests for records and deposition.

9. On November 1, 2023 Defendants attempted to serve Jodi Brown a subpoena for documents. The process server has been unable to make contact with Ms. Brown as the address provided on the Plaintiff's Witness List is a P.O. Box. Additionally, The School Board attempted to have Jodi Brown served at the address listed on Google search, to no avail.

10. Defense counsel has made various attempts to obtain a better address for Ms. Brown, as follows:

- a. Friday, November 3, 2023 at 4:52 pm, by phone.
- b. Tuesday, November 7, 2023 at 8:58 am by phone, in this call, an email address was provided by voicemail to Ms. Brown for ease of contact.
- c. Wednesday, November 8, 2023 at 7:41 am, Ms. Brown sent a blank email to the Defense. The address listed therein, was the aforementioned P.O. Box.
- d. Wednesday, November 8, 2023 at 8:32 am, an email was sent to Ms. Brown with the following:
 - i. Subpoena for Documents;
 - ii. HIPPA Release executed by Plaintiff;
 - iii. Attachment to the Subpoena for Documents;
 - iv. Subpoena for Deposition with Zoom information.
- e. A follow-up email was sent on November 8, 2023 at 10:43 am.
- f. On November 9, 2023, at 12:49 pm, another follow-up email was sent.
- g. Thursday, November 9, 2023 at 12:49 pm, the Defense sent a follow-up email. To date, no response has been provided.

- h. On Friday, November 10, 2023 at 12:31 pm, Jodi Brown sent an email indicating she has retained an attorney, Mr. John H. Richards, Esq.
 - i. Defense counsel was able to serve Mr. Richards on November 14, 2023, at 4:40 pm.
 - j. On November 15, 2023, Defense counsel spoke with Plaintiff's counsel, in the presence of the Plaintiff, concerning the issue of the address and the request for a better address or an email from Ms. Brown confirming a willingness to accept service via email. Plaintiff's counsel advised Plaintiff texted Ms. Brown at that moment and would let us know when she has responded.
 - k. On November 16, 2023, Ms. Brown's attorney indicated service was improper, as Jodi Brown did not approve to be served through her attorney. He did not provide a better address for his client to personally be served.
 - l. On November 17, 2023 my paralegal spoke with Mr. Eric Basterrechea, Esq. of the Boyd Law Group, to obtain his clients availability for deposition.
11. The Defendants are in need of a ruling on this Emergency Motion to Compel a Better Address for Jodi Brown by Monday, November 20, 2023.
12. The parties have been working together on this issue and the non-party witness has delayed the ability to conduct a deposition and obtain medical records in her possession. This emergency did not arise due to the dilatory conduct of the parties.

WHEREFORE, Defendants, PALM BEACH COUNTY SCHOOL BOARD and MICHAEL J. BURKE, respectfully requests this Honorable Court order the Plaintiff to provide a better address for Ms. Jodi Brown, LMHC and order any other relief deemed necessary.

By: /s/ V. Danielle Williams
V. DANIELLE WILLIAMS, ESQ.
Florida Bar No.: 72229

CERTIFICATE OF EMERGENCY

After reviewing the facts and researching applicable legal principles, I certify that this motion in fact presents a true emergency (as opposed to a matter that may need only expedited treatment) and requires an immediate ruling because the Court would not be able to provide meaningful relief to a critical, non-routine issue after the expiration of seven days. I understand that an unwarranted certification may lead to sanctions.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 17, 2023, the foregoing document was served by e-mail on all counsel or parties of record on the Service List below.

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